

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DION HARDAWAY,

Plaintiff,

v.

Case No. 05-70362

JAMES HAGGERTY, VINCENT GAUCI
CARL TABB, MICHAEL NOWAK,
DAVID SMITH, ROBERT MULVANEY, and
WILLIAM OVERTON,

HONORABLE AVERN COHN

Defendants.

ORDER DENYING REQUEST FOR RECONSIDERATION

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff Dion Hardaway is suing the following defendants: James Haggerty, Vincent Gauci, Carl Tabb, Michael Nowak, David Smith, Robert Mulvaney, and William Overton. He claims defendants have violated his right to religion under the First Amendment and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc.

The matter was referred to a magistrate judge for pre-trial proceedings. Defendants filed a motion to dismiss on the grounds that plaintiff failed to fully exhaust his administrative remedies. The magistrate judge issued a report and recommendation (MJRR) recommending that the motion be granted unless plaintiff within 30 days moves to amend the complaint to dismiss the unexhausted defendant, William Overton. Defendants objected to the MJRR. The Court adopted in part and rejected the MJRR. The Court denied defendants' motion to dismiss but dismissed plaintiff's claims against

Overton for failure to exhaust. See Memorandum and Order filed June 15, 2005.

On June 16, 2005, plaintiff filed objections to the MJRR. Because the Court has already ruled on defendants' motion, the objections are construed as a request for reconsideration. Plaintiff appears to say that he has exhausted his administrative remedies as to Overton because all grievances filed at Step III are addressed to the Director's Office and therefore Overton was "alerted" to his grievances. This is insufficient to show exhaustion. Plaintiff must have named Overton in the grievances, which he did not. As such, he has not exhausted his administrative remedies with respect to Overton. Accordingly, plaintiff's request for reconsideration is DENIED. As noted in the June 15, 2006 Order, plaintiff's claims against the remaining defendants continue.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: June 19, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 19, 2006, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager
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